

CUSTOMS BULLETIN AND DECISIONS

**Weekly Compilation of
Decisions, Rulings, Regulations, Notices, and Abstracts
Concerning Customs and Related Matters of the
U.S. Customs Service
U.S. Court of Appeals for the Federal Circuit
and
U.S. Court of International Trade**

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This issue contains:
U.S. Customs Service
T.D. 97-69 and 97-70
General Notices

**DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE**

NOTICE

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U.S. Customs Service

Treasury Decisions

19 CFR Part 10

(T.D. 97-69)

RIN 1515-AB79

USE OF CONTAINERS DESIGNATED AS INSTRUMENTS OF INTERNATIONAL TRAFFIC IN POINT-TO-POINT LOCAL TRAFFIC

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that certain containers that are designated as instruments of international traffic are deemed to remain in international traffic provided they exit the United States within 365 days of the date on which they are admitted to the U.S. For the importing community as well as Customs, this amendment greatly simplifies the treatment of containers for Customs purposes regardless of their use in domestic commerce.

EFFECTIVE DATES: December 4, 1997. Compliance Date: For containers subject to this rule that have already been admitted to the U.S. the 365-day period will begin on December 4, 1997, without regard to the time the containers were already in this country.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Glen E. Vereb, Entry and Carrier Rulings Branch, (202-482-6940).

Operational aspects: Eileen A. Kastava, Cargo Control, (202-927-0983).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under 19 U.S.C. 1322, vehicles and other instruments of international traffic are excepted from the application of the Customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury. The Customs Regulations issued under the authority of 19 U.S.C. 1322 are contained in § 10.41a.

Instruments of international traffic so designated pursuant to § 10.41a may, as provided therein, be released without a Customs entry which would otherwise be required. Such instruments are also stated to

be duty-free in subheading 9803.00.50, Harmonized Tariff Schedule of the United States.

Section 10.41a(d) provides that if an instrument of foreign origin, or of U.S.-origin that has been increased in value or improved in condition by a process of manufacture or other means while abroad, is released under § 10.41a and is subsequently diverted to point-to-point local traffic within the United States, or is otherwise withdrawn from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duty.

However, § 10.41a(f) sets forth certain uses to which an instrument of international traffic may properly be put in the United States that would not constitute a diversion to unpermitted point-to-point local traffic within the U.S. or a withdrawal from its use in international traffic.

Specifically, § 10.41a(f) provides that, except for the application of the coastwise trade laws (see § 4.93, Customs Regulations (19 CFR 4.93)), no part of § 10.41a precludes (1) the use of an instrument in picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo, (2) the use of an instrument while en route from such point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, or (3) the use of a "container" as defined in the Customs Convention on Containers (together with its normal accessories and equipment if imported therewith), when such container arrives empty while en route between the port of arrival and a point where export cargo is to be loaded or from that point to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, provided that such point-to-point traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic.

By a document published in the Federal Register on October 4, 1996 (61 FR 51849), Customs proposed to amend § 10.41a(f) so as to apply only to instruments of international traffic other than containers as defined in Article 1 of the Customs Convention on Containers, and to add a new paragraph (g) to § 10.41a, that would provide that such containers would be deemed to remain in international traffic as long as they exited the U.S. within 365 days of the date of their admission to the U.S. This would be so regardless of the fact that the containers engaged in point-to-point local traffic while in the United States during this period.

This proposal was intended to simplify Customs treatment of containers for both the public as well as Customs itself in that the more difficult-to-apply requirements set forth in § 10.41a(f) would no longer apply to containers, these requirements constituting a restrictive and cumbersome impediment to the efficient and economical utilization of such containers while in the U.S.

Inasmuch as containers specially designed and equipped for carriage by one or more modes of transport were duty-free under subheading 8609.00.00, Harmonized Tariff Schedule of the United States, Customs expected little or no loss of revenue to the Government under the proposal.

Eight comments were submitted in response to the notice of proposed rulemaking, five of which fully supported the proposal. A discussion, together with Customs analysis, of the questions raised about the proposed rule appears below.

DISCUSSION OF COMMENTS

Comment:

One commenter believed that the proposal would permit a more flexible use of railcars.

Customs Response:

While § 10.41a(g) will facilitate intermodal transportation insofar as the domestic movement of the subject containers is concerned, it must be emphasized that foreign railcars, which may sometimes be used to transport such containers, are still governed by the provisions of § 123.12, Customs Regulations (19 CFR 123.12), as to the permissible domestic traffic in which they may engage. Pursuant to Article 1, § (b)(v), of the Customs Convention on Containers, the term "container" expressly excludes vehicles. Thus, railcars are not containers within the scope of, and are not covered by, § 10.41a(g).

Comment:

One commenter suggested that §§ 123.14 and 123.16, Customs Regulations (19 CFR 123.14, 123.16), be amended to permit Canadian tractors and trailers to engage in point-to-point local traffic within the United States, similar to that permitted for containers in proposed § 10.41a(g).

Customs Response:

Customs has this suggestion under consideration. Such a proposal would be the subject of a separate publication in the Federal Register, should Customs decide to proceed therewith.

Comment:

One commenter requested that certain wooden containers, which were capable of being enlarged by the use of removable sections, and were used to import bearings, be included in proposed § 10.41a(g).

Customs Response:

Customs is satisfied that the wooden containers, which were described in literature furnished by the commenter, fall within the purview of § 10.41a(g).

Comment:

Two commenters, on behalf of various container lessors, owners and operators, raised a number of objections to proposed § 10.41a(g).

Specifically, these commenters stated that requiring entry for containers remaining in the U.S. in excess of the 365-day limit would impose an onerous financial and paperwork burden on the container owner, in terms of the administrative costs of tracking and monitoring the subject containers, and making arrangements, if necessary, for their entry.

Moreover, in the case of a leasing company, the 365-day limit would be very difficult, or impossible, to comply with, because if a container were on lease to a shipping line, the leasing company would not know when it entered the United States; and should the container be returned to the leasing company by the shipping line, the lessor would not know how much of the 365-day period had expired.

In addition, entry would be required for containers left in the U.S. in excess of the 365-day period, even though they might have remained unused at a depot during this time and thus posed no competitive threat to any domestic or other transport.

To this latter end, it was declared that, from time to time, a container could remain in the U.S. in excess of the 365-day limit, for example, because of a reduced demand therefor, as in a recession, or because the container had been stored/stacked in a manner which precluded its ready accessibility (although one commenter remarked that the time a container remained unused in this manner averaged only a few days or weeks). In a recession, a leasing company's containers, rather than those owned by a shipping company, were asserted to be more likely to remain unused at a depot, since the shipper would rely on its own containers during an economic slowdown, returning any leased containers to the lessor.

Yet, notwithstanding these objections, the commenters stated that they would nevertheless support proposed § 10.41a(g) as long as they had the option of continuing to operate under existing § 10.41a(f).

Customs Response:

Customs believes that § 10.41a(g) significantly alleviates the burden of tracking and monitoring containers otherwise imposed by § 10.41a(f), inasmuch as § 10.41a(g) focuses solely on the dates of a container's admission to, and subsequent exit from, the U.S. As such, § 10.41a(g) will simplify Customs administration of the applicable statutory and regulatory authority, and, moreover, it will better facilitate the domestic use of containers for the parties concerned, by basically permitting their unrestricted, and hence more efficient and economical, use within the U.S. In addition, the records necessary to track and monitor the movements of containers under § 10.41a(g) are those that are otherwise generated and retained in the ordinary course of business. A reference to this latter effect is included in § 10.41a(g)(2).

By contrast, as pointed out by the commenters who unreservedly supported the amendment, § 10.41a(f) has consumed unduly burdensome amounts of time and effort expended in container tracking and record-keeping; has created much confusion and misunderstanding as to

which domestic uses of containers are or are not permitted thereunder; and has caused an inefficient and uneconomical deployment of containers and related facilities, resulting in higher costs for carriers and shippers.

Consequently, Customs has concluded that containers as defined in Article 1 of the Customs Convention on Containers will, as initially proposed, be governed solely by § 10.41a(g), in place of current § 10.41a(f) with its cumbersome restrictions in this regard.

Entry pursuant to § 10.41a(g) would be required only when the container remained in the U.S. in excess of the 365-day period, an occurrence that should be relatively rare especially in the case of a container remaining unused at a depot, given the fact that the time a container so remains in the U.S. ordinarily averages at most only a few weeks, as stated by one of the commenters. Thus, it fairly appears that the container industry is already generally operating well within the 365-day limit.

Nevertheless, in light of the concerns expressed by the commenters with respect to any possible revisions in their business practices that may be incurred as a result of the adoption of § 10.41a(g), Customs has determined that the effective date of the final rule should be delayed for 120 days from the date of publication of this document in the Federal Register, in order to mitigate any possible administrative impact resulting from its implementation. In this respect, Customs calculation of the 365-day period for subject containers already in the United States would begin as of the aforementioned date without regard to any prior time expended by the containers in this country.

CONCLUSION

In view of the foregoing, and following careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments should be adopted.

In addition, § 10.41a(f)(1) is changed by adding a phrase which makes clear that containers are no longer covered thereunder, and are governed instead by § 10.41a(g)(1)-(3); to this end, a cross reference to § 10.41a(g)(1)-(3) is also included in § 10.41a(f)(1).

Furthermore, the last sentence of § 10.41a(g)(3), as proposed, is changed, and an additional sentence is added thereafter, in order to clarify and confirm that if any container is removed from international traffic and thus becomes subject to entry under 19 U.S.C. 1484, the determination of the value of the container for entry purposes must be effected in the manner prescribed by the Customs valuation law (19 U.S.C. 1401a).

REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

The amendments simplify the Customs treatment of containers for the importing public in that the more difficult-to-apply requirements set forth in § 10.41a(f) will no longer apply to containers. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et*

seq.), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, these amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604, nor do they result in a "significant regulatory action" under E.O. 12866.

LIST OF SUBJECTS IN 19 CFR PART 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

AMENDMENTS TO THE REGULATIONS

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority for part 10 is revised, and the specific authority for § 10.41a continues, to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;
* * * * *

2. Section 10.41a is amended by revising paragraph (f) to read as follows; by redesignating paragraphs (g), (h) and (i), as (h), (i) and (j), respectively; and adding a new paragraph (g) to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

* * * * *

(f)(1) Except as provided in paragraph (j) of this section, an instrument of international traffic (other than a container as defined in Article 1 of the Customs Convention on Containers that is governed by paragraphs (g)(1)–(3) of this section) may be used as follows in point-to-point traffic, provided such traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic:

(i) Picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo; or

(ii) Picking up and delivering loads at intervening points in the United States while en route from the point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure.

(2) Neither use as enumerated in paragraph (f)(1)(i) or (ii) of this section constitutes a diversion to unpermitted point-to-point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section.

(g)(1) Except as provided in paragraph (j) of this section, a container (as defined in Article 1 of the Customs Convention on Containers) that is designated as an instrument of international traffic is deemed to remain in international traffic provided that the container exits the U.S. within 365 days of the date on that it was admitted under this section. An exit from the U.S. in this context means a movement across the border of the United States into a foreign country where either:

(i) All merchandise is unladen from the container; or

(ii) Merchandise is laden aboard the container (if the container is empty).

(2) The person who filed the application for release under paragraph (a)(1) of this section is responsible for keeping and maintaining such records, otherwise generated and retained in the ordinary course of business, as may be necessary to establish the international movements of the containers. Such records shall be made available for inspection by Customs officials upon reasonable notice.

(3) If the container does not exit the U.S. within 365 days of the date on which it is admitted under this section, such container shall be considered to have been removed from international traffic, and entry for consumption must be made within 10 business days after the end of the month in which the container is deemed removed from international traffic. When entry is required under this section, any containers considered removed from international traffic in the same month may be listed on one entry. Such entry may be made at any port of entry. Under 19 U.S.C. 1484(a)(1)(B), the importer of record is required, using reasonable care, to complete the entry by filing with Customs the declared value, classification and rate of duty applicable to the merchandise. The importer of record must use the value of the container as determined in accordance with § 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by the Trade Agreements Act of 1979 (TAA).

* * * * *

GEORGE J. WEISE,
Commissioner of Customs.

Approved: June 25, 1997.

JOHN P. SIMPSON,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 6, 1997, (62 FR 42209)]

(T.D. 97-70)

REVOCATION OF CUSTOMS BROKER LICENSE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

AMENDED: Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Parts 111.52 and 111.74 of the Customs Regulations, as amended (19 CFR 111.52 and 111.74), the following Customs broker license is canceled with prejudice.

<i>Port</i>	<i>Individual</i>	<i>License #</i>
Houston	Sam Martinez	6282

Date: August 1, 1997.

PHILIP METZGER,
Director,
Trade Compliance.

(Published in the Federal Register, August 6, 1997, (62 FR 42281))

U.S. Customs Service

General Notices

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, August 6, 1997.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

STUART P. SEIDEL,
*Assistant Commissioner,
Office of Regulations and Rulings.*

PROPOSED MODIFICATION OF RULING LETTER RELATING TO TARIFF CLASSIFICATION OF CHEF COATS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of chef coats. The merchandise is three styles of 100 percent woven cotton unisex chef "coats" with full front openings with double rows of fabric knot buttons that can be buttoned either left over right or right over left. The garments are hip-length with mandarin collars and mandarin styling, and long or short sleeves, depending on the style.

DATE: Comments must be received on or before September 19, 1997.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings,

Attention: Tariff Classification Appeals Division, Constitution Avenue, N.W. (Franklin Court), Washington D.C. 20229. Comments submitted may be inspected at the Tariff Classification Appeals Division, Office of Regulations and Rulings, located at Franklin Court, 1099 14th Street, N.W., 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Deann Schaffer, Textiles Branch (202) 482-7050.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling pertaining to the tariff classification of chef "coats." Customs invites comments on the correctness of the proposed modification.

In New York Ruling Letter (NY) 806883, dated February 27, 1995 (set forth as "Attachment A"), the merchandise in issue was classified under subheading 6211.42.0081, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as "Track suits, ski-suits and swimwear; other garments: Other garments, womens or girls: Of cotton: Other."

It is now Customs position that the merchandise described above is properly classified under subheading 6206.30.3040, HTSUSA, which provides for, "Womens or girls blouses, shirts and shirt-blouses: Of cotton: Other: Other * * * Other: Womens."

Customs intends to modify NY 806883, with respect to style numbers 147, 151 and 17484, in order to classify this merchandise under subheading 6206.30.3040, HTSUSA. The classification of Style number 102, a chefs jacket also classified in NY 806883, remains classified under 6203.32.2040, HTSUSA. Before taking this action, we will give consideration to any written comments timely received. Proposed HQ 960333, modifying NY 806883, is set forth a "Attachment B" to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: August 4, 1997.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, February 27, 1995.

CLA-2-62: S:N:N5:353 806883

Category: Classification

Tariff No. 6211.42.0081 and 6203.32.2040

MS. DIANE L. WEINBERG
SANDIER, TRAVIS & ROSENBERG, PA.
505 Park Avenue
New York, NY 10022-1106

Re: The tariff classification of chefs coats and a chef's jacket from El Salvador.

DEAR MS. ROSENBERG:

In your letter dated February 7, 1995, on behalf of Interamerica Assemblies, Inc. (hereinafter: "Interamerica"), you requested a classification ruling.

The submitted samples are chefs coats consisting of 100 percent woven cotton fabric. Styles 147, 151, and 17484 are unisex chefs coats featuring a full front opening with a double row of fabric knot buttons that can button, be buttoned either left over or right over left. The garments are hip-length with mandarin collars and mandarin styling, long or short sleeves, depending on the style. Style 102 has the features of a suit-type jacket with a full front opening with button closures that fasten left over right. The garment has a collar with lapels and long sleeves.

The chefs jacket, style 102 meets the requirements set out in the Explanatory Notes for jackets or blazers in heading 6203, HTSUS. The Explanatory Notes are the official interpretation of the HTSUS at the international level. The Explanatory Notes for heading 6103, HTSUSA, which apply mutandis to heading 6203, HTSUSA, require a jacket or blazer to have three or more panels (of which two are in the front) sewn together lengthwise. The jacket has three panels (two in the front and one in the back) sewn together lengthwise.

The garment is designed to be worn as a jacket over other outerwear garments. We believe it has sufficient features to be considered a suit-type. The lapel styling, full frontal opening with a three button closure and front waist pockets are features generally found in casual leisure jackets.

The applicable subheading for styles 147, 151, and 17484 will be 6211.42.0081, Harmonized Tariff Schedule of the United States (HTS), which provides for track suits, ski-suits and swimwear; other garments: Other garments, women's or girls': of cotton: Other. The duty rate will be 8.6 percent *ad valorem*.

The applicable subheading for style 102 will be 6203.32.2040, Harmonized Tariff Schedule of the United States (HTS), which provides for men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear: Suit-type jackets and blazers: Of cotton: Other, Other: Men's. The rate of duty will be 9.9 percent *ad valorem*.

The chef coats, styles 147, 151, 17484 fall within textile category designation 359. The chefs jacket, style 102 falls within the textile category designation 333. Based upon international textile trade agreements products of El Salvador are "not" subject to quota and the requirement of a visa.

The designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)* an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,

*Area Director,
New York Seaport.*

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:TC:TE 960333
Category: Classification
Tariff No. 6206.30.3040

MS. DIANE L WEINBERG
SANDIER, TRAVIS & ROSENBERG, PA.
505 Park Avenue
New York, NY 10022-1106

Re: Classification of chef coats from El Salvador; Heading 6211; Heading 6206; modification of NY 806883.

DEAR MS. WEINBERG:

This is in reference to a ruling issued to you by the former Area Director, New York Seaport, New York Ruling (NY) 806883, dated February 27, 1995, concerning the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of several chef coats. We have reviewed this ruling in light of the publication of Headquarters Ruling (HQ) 959974, dated April 7, 1997, HQ 959817, dated April 7, 1996, and NY B80112, dated December 24, 1996. Based upon these rulings, we have determined that NY 806883 is partially incorrect.

Facts:

In NY 806883, Customs classified three styles of chef "coats" consisting of 100 percent woven cotton fabric. Styles 147, 151 and 17484 were identified to be unisex chef coats featuring a full front opening with a double row of fabric knot buttons that can be buttoned either left over right or right over left. The garments are hip-length with mandarin collars and mandarin styling, and long or short sleeves, depending on the style.

Issue:

What is the tariff classification of the chef coats?

Law and Analysis:

In NY 806883, Customs classified the chef "coats" under subheading 6211.42.0081, HTSUSA, which provides for "Track suits, ski-suits and swimwear; other garments: Other garments, womens or girls: Of cotton: Other.

In HQ 959974, HQ 959817 and NY B80112, Customs determined that the proper classification for these types of chef "coats" is under subheading 6206.30.3040, HTSUSA, which provides for "Womens or girls blouses, shirts and shirt-blouses: Of cotton: Other: Other * * * Other: Womens". This determination was based upon the following analysis.

The classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRIs), taken in order. GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may be applied, taken in order.

In HQ 959974, HQ 959817, and NY B80112, Customs addressed the classification of the chef "coat" under heading 6211, HTSUSA, and heading 6206, HTSUSA. Customs determined the classification based upon previous rulings and the Explanatory Notes to the

Harmonized Commodity Description and Coding System (EN), which although not legally binding, are the official interpretation of the tariff at the international level.

The EN to heading 6114 concerning other garments apply *mutatis mutandis*, to the articles of heading 6211, HTSUSA. applicable EN to heading 6114, HTSUSA, provides that "this heading covers knitted or crocheted garments which are not included more specifically in the preceding headings of this chapter". Applying this language to heading 6211, HTSUSA, denotes that Heading 6211, HTSUSA, is not appropriate if the garments at issue are covered more specifically in preceding headings. The applicable EN to heading 6211, HTSUSA, further states the following:

The heading includes, inter alia:

(1) Aprons, boiler suits (coverall), smocks and other protective clothing of a kind worn by mechanics, factory workers, surgeons, etc.

(2) Clerical or ecclesiastical garments and vestments (e.g., monks habits, cassocks, copes, soutanes, surplices).

(3) Professional or scholastic gowns and robes.

(4) Specialized clothing for airmen, etc. (e.g., airmens electrically heated clothing).

(5) Special articles of apparel used for certain sports or for dancing or gymnastics (e.g., fencing clothing, jockeys silks, ballet skirts, leotards).

General notes to the EN to Chapter 62 state, in part, "Shirts and shirt blouses are garments designed to cover the upper part of the body, having long or short sleeves and a full front opening starting at the neckline."

The application of these two headings to other garments has been previously reviewed by this office. For instance, in Headquarters Ruling Letter (HQ) 959136, dated November 27, 1996, this office classified a hospital issue scrub type top in heading 6206, HTSUSA, determining that it was not suitable for use as protective clothing. Customs pointed out in this ruling that "the protective garments properly classifiable under heading 6211, HTSUSA, are of a kind that have special design features or unique properties that distinguish them from other garments that are not used for protective purposes." Several examples of this follow. In HQ 952934, dated July 19, 1993, Customs classified coveralls designed to protect the wearer from microwave radiation under Heading 6211, HTSUSA. The coveralls at issue in that case were composed of textile fabric and stainless steel fibers. In HQ 084132, dated July 6, 1989, Customs classified a lab coat made of 100 percent polyester woven fabric with carbon fiber woven into it as an antistatic component under Heading 6211, HTSUSA. The lab coat was designed for wear in the electronics industry.

The chef "coats" at issue are classifiable in accordance with those previously ruled upon in that they do not have any special design features or unique properties that make them subject to or suitable for use as protective clothing nor do they fall within any of the other listed items in the EN to heading 6114. The chef coats are specifically provided for under heading 6206, HTSUSA, thus classification under heading 6211, HTSUSA, is not required.

Holding:

The chef "coats," referenced style numbers 147, 151 and 17484, are classified in subheading 6206.30.3040, HTSUSA, which provides for "Womens or girls blouses, shirts and shirt-blouses: Of cotton: Other: Other * * * Other: Womens". The applicable rate of duty is 16.2 percent *ad valorem* and the textile category is 341. NY 806883 is modified with respect to the chef coats referenced above. With respect to the chef jacket, also, classified in NY 806883, its classification under subheading 6203.32.2040, HTSUSA, remains unchanged.

JOHN DURANT,

Director,

Tariff Classification Appeals Division.

MODIFICATION OF RULING LETTER RELATING TO COUNTRY OF ORIGIN DETERMINATION OF TENTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of modification of country of origin ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling pertaining to the country of origin of tents. Notice of the proposed modification was published July 2, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 27.

EFFECTIVE DATE: This decision is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Josephine Baiamonte, Textile Branch, (202) 482-7058.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 2, 1997, Customs published a notice in the CUSTOMS BULLETIN, Volume 31, Number 27, 1997, proposing to modify Headquarters Ruling (HQ) 959311, dated July 17, 1996. In HQ 959311 the country of origin of certain tents composed of materials from two or more countries was analyzed based on section 102.21(c)(5) of the Customs Regulations (19 CFR 102.21(c)(5)). Section 102.21(c)(5) states that the country of origin is the last country in which an important assembly or manufacturing process occurs. This analysis was based on the assumption that in those scenarios involving two or more countries, all of the materials comprising the tents were fabric. A review of the file for HQ 959311 has revealed that not all of the materials comprising the tent are fabric. In fact, the floor of the tents is made of PE sheet, a plastic. As such one of the four scenarios addressed in HQ 959311 (specifically scenario II) is in error. At issue in this modification is the proper analysis for scenario II for the subject tents and consequently, the correct country of origin.

No comments were received in response to our notice of intent to revoke HQ 959311.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling pertaining to the country of origin of tents.

Publication of rulings or decisions pursuant to section 625 does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Dated: August 1, 1997.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, August 1, 1997.
CLA-2 RR:TC:Th 960576 jb
Category: Classification

JENNIFER MULLIKIN
THE COLEMAN COMPANY, INC.
3600 N. Hydraulic
Wichita, KS 67219

Re: Modification of HQ 959311, dated June 17, 1996; country of origin of tents; floor made of PE sheet; 102.21(c)(2); tariff shift.

DEAR MS. MULLIKIN:

On June 17, 1996, this office issued to you Headquarters Ruling Letter 959311 regarding the country of origin of certain nylon taffeta tents covering four manufacturing scenarios. A review of the file has revealed that contrary to what is stated in the ruling, the floor for the subject tents is made out of PE sheet and not a fabric. Although this change in the facts does not affect all of the country of origin determinations set out in that ruling, scenario II is incorrect. Accordingly, this letter will set out the proper analysis and country of origin determination for that affected scenario.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 959311 was published on July 2, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 27.

Facts:

The manufacturing operations discussed in HQ 959311 are as follows:

SCENARIO I

Country A

—material for roof and walls is formed.

Country B

—material for roof and walls is formed.

Country C

—material for floor is formed.

Country D

—cutting, assembly and packing.

SCENARIO II*Country A*

—material for roof and walls is formed.

Country C

—material for floor is formed.

Country D

—cutting, assembly and packing.

SCENARIO III*Country A*

—material for roof and walls is formed.

Country C

—fiberglass poles are formed.

Country D

—cutting, assembly and packing.

SCENARIO IV*Country A*

—material for roof walls and floor is formed.

Country D

—cutting, assembly and packing.

In scenarios I and II addressed in HQ 959311, as the fabric for the tents' roof walls and floor was formed in two or more countries, a section 102.21(c)(5) (multi-country) analysis was applied which determined that the country of origin of the tents was the country in which the assembly occurred. In scenarios III and IV as the fabric for the tents was formed in a single country, a section 102.21(c)(2) analysis was applied which determined that the country of origin of the tents was the country in which the fabric making occurred. The determinations in that ruling were premised on the fact that all of the materials which comprised the tents were fabric.

In regard to scenario I the determination is accurate because the fabric is sourced in two countries and the PE sheet in a third country, thus, as per section 102.21(c)(5) the country of origin is Country D, that is, the last country in which an important assembly operation occurred. In scenarios III and IV as all of the fabric and the PE sheet are sourced in Country A, country of origin is conferred in Country A.

Scenario II however, where the manufacturing operation for the tents involves fabric for the roof and walls sourced in Country A and PE sheet for the floor sourced in Country C, is incorrect both in the analysis and the determination. This letter serves to rectify scenario II.

Issue:

What is the proper country of origin for the tents in scenario II?

Law and Analysis:

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act. Section 334 of that Act provides new rules of origin for textiles and apparel entered, or withdrawn from warehouse, for consumption, on and after July 1, 1996. On September 5, 1995, Customs published Section 102.21, Customs Regulations, in the Federal Register, implementing Section 334 (60 FR 46188). Thus, effective July 1, 1996, the country of origin of a textile or apparel product shall be determined by sequential application of the general rules set forth in paragraphs (c)(1) through (5) of Section 102.21.

Paragraph (c)(1) states that "The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced." As the subject merchandise is not wholly obtained or produced in a single country, territory or insular possession, paragraph (c)(1) of Section 102.21 is inapplicable.

Paragraph (c)(2) states that "Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which the foreign material in-

incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section."

Paragraph (e) states that "The following rules shall apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:"

6301-6306 The country of origin of a good classifiable under heading 6301 through 6306 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.

The subject tents are classified in heading 6306, HTSUSA. The tents in scenario II are made of both a fabric and a non-fabric material. As the fabric is formed in a single country, as per the terms of the tariff shift, the country of origin of the tents in scenario II is the country in which the fabric making process occurred, that is, Country A.

Holding:

Accordingly, HQ 959311, dated June 17, 1996, is modified to reflect Country A as the country of origin for the tents in scenario II.

In accordance with 19 U.S.C. 1625(c)(1), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN. Publication of rulings or decisions pursuant to 19 U.S.C. 1625(c)(1) does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

JOHN ELKINS,

(for John Durant, Director,
Tariff Classification Appeals Division.)

REVOCATION OF CUSTOMS RULING LETTER RELATING TO TARIFF CLASSIFICATION OF TOY HATS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057 (1993)), this notice advises interested parties that Customs is revoking a ruling letter pertaining to the tariff classification of toy hats. Notice of the proposed revocation was published July 2, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 27.

EFFECTIVE DATE: This decision is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Greg Deutsch, Office of Regulations and Rulings, Textile Branch (202) 482-6976.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 2, 1997, Customs published a notice in the CUSTOMS BULLETIN, Volume 31, Number 27, proposing to revoke New York Ruling Let-

ter (NY) 807280, dated February 25, 1995. In NY 807280 Customs classified an article described as a "Minnie Mouse Ear Hat" in subheading 6506.91.0060, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides for "Other headgear, whether or not lined or trimmed: Other: Of rubber or plastics, Other." It is Customs position that, since the article is non-durable, decorative, and principally designed for amusement, it is similar to articles of chapter 95, more specifically, heading 9505, HTSUS. The item should be classified in subheading 9505.90.6020, HTSUSA, the provision for "Festive, carnival or other entertainment articles * * *: Other: Other, Hats: Other."

No comments were received in response to our notice of intent to revoke NY 807280.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057 (1993)), this notice advises interested parties that Customs is revoking a ruling letter pertaining to the classification of toy hats. HQ 958650 revoking NY 807280 is set forth as an attachment to this document.

Publication of rulings or decisions pursuant to section 625 does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Dated: August 1, 1997.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, August 1, 1997.
CLA-2 RR:TC:TE 958650 GGD
Category: Classification
Tariff No. 9505.90.6020

MR. STEVEN H. BECKER
MS. KAREN BYSIEWICZ
COUDERT BROTHERS
114 Avenue of the Americas
New York, NY 10036-7794

Re: Revocation of New York Ruling Letter (NY) 807280; "Minnie Mouse Ear Hat;" Toy Hat; Not Other Textile Headgear.

DEAR MR. BECKER AND MS. BYSIEWICZ:

In NY 807280, issued February 25, 1995, an article described as a "Minnie Mouse Ear Hat" was classified in subheading 6506.91.0060, Harmonized Tariff Schedule of the United

States Annotated (HTSUSA), which provides for "Other headgear, whether or not lined or trimmed: Other: Of rubber or plastics, Other." We have reviewed that ruling and have found it to be in error. Therefore, this ruling revokes NY 807280.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 807280 was published on July 2, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 27.

Facts:

At the time NY 807280 was issued, the sample was described as consisting of a beanie-type hat of felt material onto which a polka-dotted ribbon and two black plastic ears were affixed, simulating the appearance of the Walt Disney character, Minnie Mouse. The ruling also applied to a "Mickey Mouse Hat," which had no ribbon but was otherwise similarly configured.

Issue:

Whether the "Minnie Mouse Ear Hat" is classified in heading 6506, HTSUS, as other headgear, or in heading 9505, HTSUS, as a toy hat.

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and GRI.

Chapter 65, HTSUS, covers headgear and parts thereof. Note 1(c) to chapter 65 states that "This chapter does not cover: Dolls' hats, other toy hats or carnival articles of chapter 95."

Heading 6506, HTSUS, applies to "Other headgear, whether or not lined or trimmed." The EN to heading 6506 indicate that the heading covers all hats and headgear not classified in the preceding headings of the chapter, or in chapters 63, 68, or 95. The EN suggest that the heading covers, in particular, safety headgear (e.g., for sporting activities, military or firemen's helmets, motor-cyclists', miners' or construction workers' helmets), whether or not fitted with protective padding or, in the case of certain helmets, with microphones or earphones. It thus appears that hats classifiable in heading 6506 are utilitarian, and that at least some types of the headgear covered perform extremely important functions.

Among other goods, chapter 95, HTSUS, covers toys. Although the term "toy" is not specifically defined in the tariff, the EN to chapter 95 indicate that the chapter covers toys of all kinds whether designed for the amusement of children or adults. It has been Customs position that the "amusement" requirement means that a toy should be designed and used principally for amusement and should not serve a utilitarian purpose.

Among other items, heading 9505, HTSUS, provides for festive, carnival or other entertainment articles. The EN to heading 9505 state, in part, that the heading covers:

(A) Festive, carnival or other entertainment articles, which in view of their intended use are generally made of non-durable material. They include:

(1) Decorations such as festoons, garlands, Chinese lanterns, etc., as well as various decorative articles made of paper, metal foil, glass fibre, etc. * * *

(3) Articles of fancy dress, e.g., masks, false ears and noses, wigs * * * and paper hats. However, the heading excludes fancy dress of textile materials, of Chapter 61 or 62.

The "Minnie Mouse Ear Hat" is not similar to the types of functional headgear cited as examples in the EN to heading 6506, HTSUS. The hat is non-durable and, if functional at all, its decorative nature clearly predominates over any utilitarian purpose. It is thus similar to the types of articles cited in the EN to heading 9505 (e.g., false ears, paper hats, etc.). We find that the article is principally designed for amusement and is, therefore, a toy hat excluded from chapter 65, HTSUS. The "Minnie Mouse Ear Hat" is classified in subheading 9505.90.6020, HTSUSA.

Holding:

The article identified as a "Minnie Mouse Ear Hat" is classified in subheading 9505.90.6020, HTSUSA, the provision for "Festive, carnival or other entertainment articles * * *; Other: Other, Hats: Other." The applicable duty rate is free.

NY 807280, issued February 25, 1995, is hereby revoked.

In accordance with section 625, this ruling will become effective 60 days from its publication in the CUSTOMS BULLETIN. Publication of rulings or decisions pursuant to section 625 does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

JOHN ELKINS,

(for John Durant, Director,
Tariff Classification Appeals Division).

REVOCATION OF RULING LETTER RELATING TO TARIFF CLASSIFICATION OF CROCHETED PAPER TOTE BAG

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the tariff classification of a crocheted paper shopper's tote bag. The article is a sling type shopper's tote manufactured with an exterior surface of a twisted and folded paper with a textile inner lining. The tote measures approximately 16½ inches by 15 inches with an oval base. Notice of the proposed revocation was published on May 28, 1997, in the CUSTOMS BULLETIN, Volume 31, No. 22.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Textiles Branch (202) 482-7050.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 28, 1997, Customs published in the CUSTOMS BULLETIN, Volume 31, No. 22, a notice of a proposal to revoke New York Ruling (NY) A85922, dated August 8, 1996, which held that a crocheted paper shopper's tote bag (lined with textile fabric) was classifiable under subheading 4202.92.3205, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as a shopping bag having an outer surface of textile materials, of paper yarn.

No comments were received in response to our notice of intent to revoke NY A85922.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking NY A85922 to reflect the proper classification of the crocheted paper shopper's tote bag from China. HQ 959877 revoking NY A85922 is set forth as an attachment to this document.

Publication of ruling or decisions pursuant to 19 U.S.C. 1625 does not constitute a change in practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Dated: July 31, 1997.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,

U.S. CUSTOMS SERVICE,

Washington, DC, July 31, 1997.

CLA-2 RR:TC:TE 959877 DHS

Category: Classification

Tariff No. 4602.90.0000

MR. LUKE MO
EAST CHANNEL INC.
72 Barnard Road
Paramus, NJ 07652

Re: Tariff classification of a shopper tote bag from China; Article of plaiting materials; Revocation of NY A85922.

DEAR MR. MO:

This is in reference to New York Ruling (NY) A85922, dated August 8, 1996, regarding a crocheted paper tote bag (lined with textile fabric). We have had occasion to review NY A85922 and a sample of the paper material from which the article is made and find that the classification of the handbag in subheading 4202.92.3205, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), is in error.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY A85922 was published on May 28, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 22.

Facts:

The merchandise in issue is a sling type shopper tote manufactured with an exterior surface of crocheted paper and a textile inner lining. The tote measures approximately 16½ inches x 15 inches with an oval base.

In NY A85922, our New York office referred to the material used to make the tote as paper yarn. Therefore, the merchandise was classified in subheading 4202.92.3205, HTSUSA, which provides for certain bags having an outer surface of textile materials * * * of

paper yarn. We assume that the sample supplied to Customs is representative of the goods initially ruled on.

Issue:

What is the tariff classification of the subject bag?

Law and Analysis:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRI's) taken in order. GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. Where goods cannot be classified solely on the basis of GRI 1, the remaining GRIs will be applied, in the order of their appearance. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System which are the official interpretation of the nomenclature at the international level provide further guidance in determining the scope of each provision.

The two provisions in issue are subheading 4202.92.0305, HTSUSA, and subheading 4602.90.0000, HTSUSA.

Subheading 4202.92.0305, HTSUSA, in pertinent part provides for handbags, shopping bags * * *: of outer surface of textile materials: travel, sports and similar bags: with outer surface of textile materials, other, of paper yarn.

The classification of paper yarns is governed by heading 5308, HTSUS, which provides for "yarn of other vegetable fibers; paper yarns." The EN to heading 5308, HTSUS, specifies that single paper yarns are obtained by twisting or rolling lengthwise strips of moist paper and that strips of paper simply folded one or more times lengthwise are not yarns. The instant strips of paper used to make the bag in issue appear to be merely folded lengthwise and are neither twisted or rolled into paper yarn. We believe that any twists evident in the finished bags surface were created during the crocheting process.

Subheading 4602.90.0000, HTSUSA, provides for basketwork, wickerwork and other articles, made directly to shape from plaiting materials * * *: other than of vegetable materials.

Note 1 to Chapter 46, HTSUSA, defines "plaiting materials" as:

* * * materials in a state or form suitable for plaiting, interlacing or similar processes; it includes straw, osier or willow, bamboos, rushes, reeds, strips of wood, strips of other vegetable material (for example, raffia, narrow leaves or strips cut from broad leaves) or bark, unspun natural textile fibers, monofilament and strip and the like of plastics and strips of paper, but not strips of leather * * *.

The EN to heading 4602, HTSUS, specifically names handbags, shopping bags and the like as an article covered by this heading. Therefore, since the totebags in issue are made up of plaiting materials provided for in Chapter 46, they are classified in that chapter.

Holding:

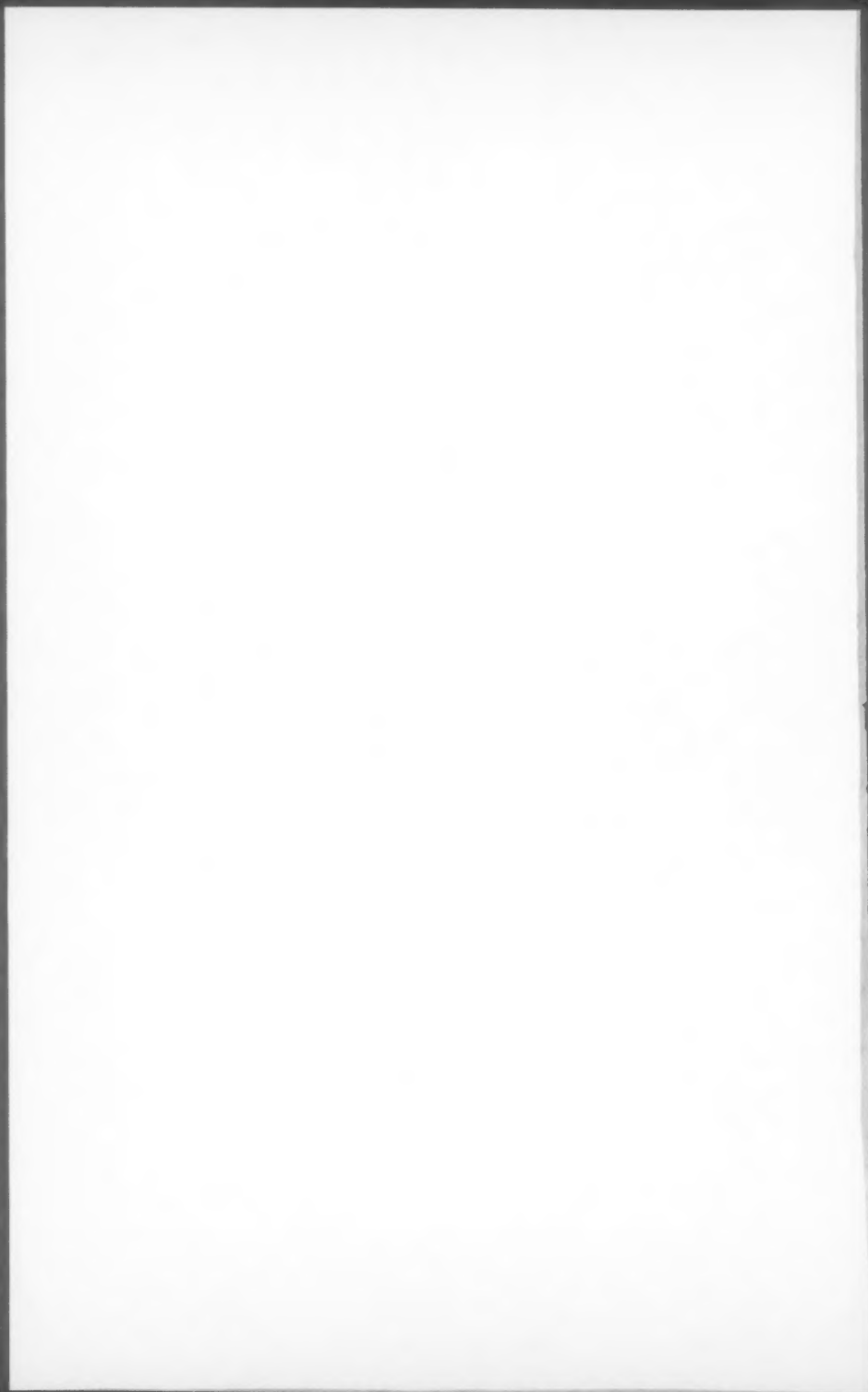
The tote bag in issue is classified in subheading 4602.90.0000, HTSUSA, which provides for basketwork, wickerwork and other articles, made directly to shape from plaiting materials * * *: other than of vegetable materials. They are dutiable at 4.2 percent *ad valorem*.

NY A85922, dated August 8, 1996, is revoked.

In accordance with 19 U.S.C. 1625(c)(1), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN. Publication of rulings or decisions pursuant to 19 U.S.C. 1625(c)(1) does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)





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